platts
100 YEARS
www.platts.com

Electric Power Daily

Tuesday, August 11, 2009

Ruling could destabilize outlook for grid buildout in PJM

"Uncertainty" as to how new high-voltage electric transmission projects in the PJM Interconnection will be paid for was the recurring theme Monday as regulators and industry analyzed the possible effects of last week's federal appeals court ruling on regional cost allocation.

The Thursday decision by the US Court of Appeals for the 7th Circuit in Chicago overturned the Federal Energy Regulatory Commission's approval of PJM's broad cost-sharing formula. With one of three judges dissenting, the court said FERC gave no solid reasons for supporting the postage-stamp rate design for projects over 500-kV capacity, which had been fought by electricity regulators in Ohio and Illinois.

The "postage stamp" rate design rejected by the court allocates the cost of new transmission to all members of a regional transmission organization equally, rather than allocating costs only to those entities that would actually use the line based on

(continued on page 7)

Dynegy deals 9 plants to LS Power; Q2 loss is $345 million

On the day Dynegy reported that its second-quarter loss ballooned from a year earlier, the Houston-based generator said Monday it would sell LS Power nine power plants with a combined capacity of 4,788 MW for $1.025 billion in cash in a deal that the merchant developer said will help boost its liquidity and financial strength.

In addition to the cash payment, LS Power will give Dynegy 245 million Class B shares of Dynegy, making Dynegy entirely publicly held. The existing shareholder agreement with LS Power will be terminated, eliminating LS Power's special shareholder and blocking rights and its place on Dynegy's board of directors.

"We believe this transformational agreement will improve our strategic and financial flexibility," Bruce Williamson, Dynegy chairman, president and CEO, told analysts Monday during a conference call. "We will receive just over $1 billion in cash increasing liquidity and providing a platform for an aggressive liability management plan targeting our near term maturities."

(continued on page 8)

Leaders envision creating smart grid for all North America

President Barack Obama and his counterparts from Canada and Mexico said Monday that their governments would work together to build a "smart" electricity grid to cover the entire North American continent.

Obama joined Canadian Prime Minister Stephen Harper and Mexican President Felipe Calderon in Guadalajara, Mexico, for talks that included discussions about energy and climate change.

While building a more efficient power grid is a domestic priority for Obama, the extension of this policy to the north and south would have large implications for an electricity grid that crosses the US-Canada and US-Mexico borders at several points.

Smart grid – a term with no set definition – is generally used to refer to a power grid using more efficient, digital technologies. It includes meters for the home as well as more efficient technologies for transmission and distribution. The preference for it on the part of policymakers such as Obama lies in its ability to

Generation

Duke, Chinese utility team up on new coal plant technologies

China's largest electric utility, China Huaneng Group, and Duke Energy will collaborate on developing new technologies for coal plants and renewable generation under a memorandum of understanding announced Monday.

"China has committed to rapidly developing clean-energy technologies, as has the US," said Duke Energy CEO Jim Rogers in a statement. "Working together, the US and China can commercialize and drive down the cost of these technologies for the benefit of the entire world."

In speeches and in op-ed pieces, Rogers has previously lamented the fact that the US has fallen behind China in developing carbon dioxide capture and other "clean coal" technologies. The relationship between the two companies will focus on developing carbon sequestration technologies.

Dave Scanzoni, a spokesman for Duke, said Rogers visited several energy facilities in China last summer before the Olympics in

(continued on page 9)

Climate Change

Cooperatives urge Senate to limit state CO2 programs

Federal legislation to cap industry emissions linked to climate change should reflect technology developments to control greenhouse gas emissions, contain provisions to control costs associated with a low-carbon economy and establish a single national program to limit layers of carbon dioxide restrictions, rural electric cooperatives told the Senate.

In a letter released Monday, the National Rural Electric Cooperative Association urged Senate Environment and Public Works Committee Chairwoman Barbara Boxer to consider their recommendations as she writes a climate change bill this month.

The bill is expected to cap carbon emissions beginning in 2012 and create an emissions allowance market where utilities can buy permits to release greenhouse

(continued on page 9)

give consumers real-time pricing data and its ability to help integrate renewable power into the marketplace.

In a joint statement, the three leaders said that a smart grid "can incorporate advanced functions into the three nations' electric grids to enhance reliability, efficiency, and security" that also "makes available abundant, affordable, clean, efficient, and reliable electric power anytime, anywhere."

"Progress will be advanced by coordinating research and assessing the needs of the electric grids to upgrade them with information-age technologies, such as microprocessors, communications, advanced computing, and information technologies," they added. "The three nations will continue collaborating on RD&D of smart grid inter-operability standards for the benefit of our societies and the development of our region."

The US received 50.1 million MWh from Canada in 2007, while Canada received 19.6 million MWh from the US, according to the Energy Information Administration. Power from Mexico into the US totaled 1.3 million MWh, and power from the US to Mexico was under half of that in 2007, according to the EIA.

In comparison, the entire US power market is approximately 4 billion MWh annually.

Yet while the total coming in from Canada represents a relatively small portion of the US total, it is concentrated in two regions dependent on that power. The Northwest receives hydropower from British Columbia, and the Northeast receives hydropower from Quebec. Hydropower from Manitoba also makes its way to US markets.

Ed Legge, a spokesman for the Edison Electric Institute, pointed to the August 2003 blackouts in the US and Canada as proof that if policymakers continue to make a smart grid a priority, then it would have to be international. "It is going to stand to reason that grid smartness will work better if it's also border-transcendent," he said. "If you're smart and they're not, then you've got a blind spot."

He added that strengths of a smart grid include limiting blackouts and giving "situational awareness" to operators. However, the problem of terrorists or other countries taking control of the electric grid mandates new vigilance in the electric power sector. "There is always more vulnerability, but that means we need to beef up our security," he said.

The meetings in Guadalajara also yielded agreements on climate change. In another joint statement, the leaders said that going into UN climate change treaty talks this December, they must have agreement and will work together to provide a unified approach on the continent on for reducing emissions and adapting to climate change.

One of the key approaches, they said, would be to develop ways to measure greenhouse gas emissions, given how closely the three countries' economies are connected. "We will develop comparable approaches to measuring, reporting, and verifying emissions reductions, including cooperating in implementing facility-level greenhouse gas reporting throughout the region," they said in a joint statement.

They also backed a proposal by Mexico to have a "Green Fund" to help finance clean energy technologies on the continent.

On the energy agreements, they recognized that an atlas to identify all geological formations for carbon storage would be necessary to help mitigate climate change. They also said that gas flaring at oil rigs must be limited across the continent since it "wastes a valuable energy resource and contributes to global warming." — *Alexander Duncan*

Ex-FERC member: Competition good for carbon, too

Competition in electricity markets is "joined at the hip" with the idea of competition for emissions allowances under the cap-and-trade program now being developed by Congress,

platts *Electric Power Daily*

Tuesday, August 11, 2009
ISSN: 1520-4138

Chief Editor
Rod Kuckro

News Desk
202-383-2254, electric@platts.com
Amy Fickling, editor
Paul Ciampoli, editor

Staff Reporters
Paul Carlsen, Catherine Cash, Christine Cordner, Jason Fordney, Jeffrey Ryser, Tom Tiernan, Lisa Weinzimer

Correspondents
Housley Carr, Lyn Corum, Ethan Howland, Harriet King, Bob Matyi, Mary Powers, Pam Radtke Russell, Lisa Wood

Editorial Director, U.S. Electricity
Kathy Carolin Larsen

Global Editorial Director, Power
Larry Foster

Vice President, Editorial
Dan Tanz

Platts President
Larry Neal

Manager, Advertising Sales
Ann Forte

Electric Power Daily is published daily by Platts, a division of The McGraw-Hill Companies. Registered office Two Penn Plaza, 25th Floor, New York, NY 10121-2298

Officers of the Corporation: Harold McGraw III, Chairman, President and Chief Executive Officer; Kenneth Vittor, Executive Vice President and General Counsel; Robert J. Bahash, Executive Vice President and Chief Financial Officer; John Weisenseel, Senior Vice President, Treasury Operations.

To reach Platts

E-mail: support@platts.com

North America
Tel: 800-PLATTS-8 (toll-free)
+1-212-904-3070 (direct)

Latin America
Tel: + 54-11-4804-1890

Europe & Middle East
Tel: +44-20-7176-6111

Asia Pacific
Tel: +65-6530-6430

Advertising
Tel: +1-720-548-5479

The McGraw Hill Companies

a former federal regulator asserted Monday.

If Congress wants to get the "maximum bang for its buck" said William Massey, who served 10 years on the Federal Energy Regulatory Commission, it should "seek a relationship between a well-functioning carbon market and a well-functioning electricity market that unmasks the prices." That price signal will allow suppliers and consumers "to adjust their behavior accordingly."

That is exactly the direction that lawmakers are headed, he said in remarks to the Women's Council on Energy and the Environment.

"The carbon markets that Congress is setting up are founded on price signals," Massey observed. The organized power markets also "are founded on the concept of well-functioning markets that deliver reliable price signals in order to change the behavior of both investors and consumers. That's how these two subjects are joined."

Finding the way to change that behavior is the "fundamental question" that Congress is dealing with, suggested Massey, who is a partner at Covington and Burling and is counsel for Compete, a group of competitive markets advocates.

"You can put the cap in place," he said, but "how do we get the American economy ... moving in a direction that is less carbon intensive?"

"The answer, in two words, is price signals," Massey said.

Congress is going to "price [carbon dioxide] into the marketplace," he said, and that price signal can be taken into account by utilities as they dispatch generation and by customers as they make consumption decisions. The whole point is "to take the cost to society of emissions and price it into the marketplace so it is not invisible anymore."

Cap-and-trade "explicitly increases the cost for carbon-intensive [power] production." While that "hard truth" is not expressed very often on Capitol Hill, "that is what it does," Massey said. But the result is that the cost is reflected in the price signals.

"Competitive electricity markets reinforce market-based pricing of carbon dioxide, providing a direct relationship," he said.

Massey acknowledged the provisions of the House-passed climate bill that in the early years allocate, rather than auction, the lion's share of allowances will "dull the price signal." But that is a result of "political realities" in Congress' decision to ease the immediate cost impacts of the new regime.

As that the amount of allowances that are auctioned increases through 2030 and beyond, "that's where you get the real price signal," Massey said. — *Craig Cano*

Calif. stakeholders urge change in RPS measures

The California Independent System Operator, Pacific Gas & Electric and others on Monday urged two lawmakers to amend bills calling for the state to generate 33% of its power from renewable sources by 2020, saying that as written the proposed laws could hurt grid reliability and investment.

The language at issue in both S.B. 14 and A.B. 64 would restrict delivery of out-of-state renewable resources to only generation simultaneously scheduled to meet in-state renewable requirements.

Besides California, 31 states and the District of Columbia have renewable portfolio standard program in place or some form of renewable target. Utilities are not expected to meet the current 20% by 2010 renewables target in terms of delivered energy.

The pending legislation could "unduly restrict 'delivery' of [power from renewable projects sited] outside of California and have the potential to seriously affect our ability to assure grid reliability," and meet the 33% goal in an economic manner, said the ISO, PG&E, Southern California Edison, Sempra, the Los Angeles Department of Water and Power and others.

Additionally, the measures raise concerns that placing "discriminatory" restrictions on out-of-state renewables resources could "expose California's [renewable portfolio standard] to attack as a violation of the federal Commerce Clause," the groups said.

Uncertainty about the constitutionality of California's RPS program could also slow down investment in renewable projects both in the state and elsewhere, they warned.

Senator Joseph Simitian, author of S.B. 14, and Assemblyman Paul Krekorian, author of A.B. 64, were urged to change their bills to accept in-state and out-of-state renewable resources, regardless of whether the resources are generated at a different time than consumption occurs in California.

The intention of the clause in the two bills is to increase development of in-state renewable resources, according to Simitian and Krekorian.

Krekorian said in a statement Monday that he "has been working with all stakeholders on refining the definition in A.B. 64 that will only allow those resources to count that are actually delivered, without being so burdensome as to require utilities to break the laws of physics to comply."

"The letter from the utilities is a welcome and productive development that hopefully reflects a commitment to maximize the amount of in-state resource development," Krekorian added.

Krekorian's bill will be reviewed by the Senate Appropriations Committee on August 17, while no date has been set for the Assembly Appropriations Committee to review Simitian's bill. Both measures have passed their house of origin.

California Governor Arnold Schwarzenegger as well as leaders in both the Assembly and Senate have expressed support for the measures, but the state's chronic budget problems appear to have diverted their attention from the bills.

According to a June draft staff report from the California Public Utilities Commission, a 33% by 2020 renewables requirement could require infrastructure investments totaling $115 billion over the next 12 years.

The report said the 33% target would likely require a near tripling of renewable electricity production from the current 27 million MWh to about 75 million MWh in 2020.
— *Lisa Weinzimer*

Correction

An article Monday misstated Mirant's earnings for the second quarter. The independent power producer recorded $163 million in income from continuing operations, not all income, for earnings per share of $1.12, not $1.21.

N.Y. expects big savings from green energy plan

New York, one of the priciest states for electricity, expects to cut rates as much as $1.6 billion by making green energy 45% of supply, according to a draft state energy plan released Monday.

The plan looks at how the state will achieve Governor David Paterson's goal of meeting 15% of demand through energy efficiency and 30% from renewables by 2015.

The plan calculates that the energy efficiency goal will not only overcome its costs, but also cut wholesale rates by 10% and retail rates by an expected 0.4 to 0.9 cents/kWh by 2015 or $600 million to $1.4 billion annually.

The price calculation is based on the impact of decreased demand for power on the state grid; it does not take into account savings that individual ratepayers might achieve in their homes and business by installing efficiency measures.

Similarly, renewables are expected to reduce retail rates 0.06 to 0.16 cents/kWh by 2018, for an aggregate savings of $93 million to $262 million, the plan says. The renewable energy savings would come largely from wind power displacing higher-cost fossil-fuel generation in the NYISO dispatch.

The Energy Information Administration ranks New York's average residential rate of 17.4 cents/kWh as the fourth-highest in the nation below only Connecticut, Hawaii and Massachusetts.

"We need to make energy more affordable for New Yorkers, and we need to do it in a way that recognizes that the country is moving towards a carbon-constrained economy. The draft plan is a good step toward this goal," Paterson said following release of the plan.

The plan attributes the state's high energy prices to its heavy reliance on fossil fuel imports, relatively low dependence on coal-fired generation, delivery constraints for electricity and fuel, the state's distance from major energy supplies, and state and local taxes and fees.

New York already has ramped up annual efficiency spending, from $25 million in 1984 to more than $750 million for 2009. But it still has far to go to reach the 2015 goal. Energy efficiency savings must ramp up five-fold, according to the plan.

The draft plan called for several changes to green energy programs to bolster the state's chances of meeting its goals, including more funding for the state renewable portfolio standard, regular renewable energy solicitations, more flexible renewable energy contracts, a trading and tracking system for voluntary renewable energy credits, better measurement and verification of energy efficiency, on-bill financing for efficiency, development of more combined heat and power, and targeted distributed generation to reduce peak demand.

Paterson is pitching the increase in efficiency and renewables as a transition toward a "Clean Energy Economy" that will both boost jobs and reduce emissions. New York's unemployment has reached a 16-year high. Meanwhile, 85% of New York's population lives in areas of the state that are not in attainment for one or more national health-based air quality standards, according to the plan.

By not cultivating in-state renewable energy projects, the state is losing money to other regions, the plan says. New York spends about $65 billion annually on energy, of which 53%, or $35 billion, leaves the state to pay for energy imports.

"This reliance on outside sources of energy creates economic opportunities in exporting regions at the expense of New York," the plan said.

The state has scheduled hearings on the plan beginning August 18. The State Energy Planning Board intends to issue a final plan in November. — *Lisa Wood*

Iowa regulators weigh MidAmerican wind plans

The Iowa Utilities Board this week began several days of hearings to consider a request by MidAmerican Energy that it be granted in advance a fixed rate of return for building up to 1,001 MW of wind generation.

NextEra Energy Resources, a renewable developer, is opposing MidAmerican's proposal and is offering to sell MidAmerican 1,100 MW through two wind farms and four power purchase agreements from four other wind projects.

The IUB held a hearing Monday to begin hashing through the arguments between the utility and the independent developer. Hearings may continue into Wednesday, said Joan Conrad, an IUB spokeswoman. At the earliest, the IUB could make a decision on the case in September, she said.

NextEra told the IUB that the outcome in the case could set the course for wind development in Iowa for the coming years. "Allowing a regulated utility, which already sells in excess of 40% of the energy it generates to wholesale customers, the ability to earn a regulated return on assets that it repeatedly says are not needed to serve its captive ratepayers, is discriminatory against competitive energy providers, and will significantly harm Iowa's ability to attract competitive energy providers to expand in the state," Michael O'Sullivan, senior vice president of development for NextEra, told the IUB in earlier testimony.

Currently, MidAmerican owns eight wind projects in Iowa totaling 1,284 MW. The Des Moines, Iowa-based utility in late March asked the IUB to set "advanced ratemaking principles" for up to 1,001 MW of wind generation to be built through 2012. In an effort to encourage power plant development, Iowa allows its utilities to propose ratemaking principles before building new generating facilities. MidAmerican's latest application proposed similar terms to previous wind applications, but for a significantly larger amount of wind capacity.

"With the larger size cap, MidAmerican is trying to improve the efficiency of its wind project development process by reducing the number of regulatory filings required to deliver significant wind energy benefits to its customers," the utility told the IUB. "The certainty of such ratemaking principles for wind generation maximizes the likelihood that MidAmerican can take advantage of economic opportunities when they occur."

The Iowa Office of Consumer Advocate has reached a settlement agreement with MidAmerican on the latest request. The OCA entered into the settlement agreement, which includes allowing MidAmerican a 12.2% return on equity, in

part because it will protect ratepayers against possible carbon dioxide costs and a national renewable portfolio standard.

MidAmerican's wind plans are not designed to meet its load. The utility does not expect to need new generation to meet peak load until 2019. Even so, it makes sense to add wind, in part because it increases fuel diversity and provides environmental benefits. Also, with the federal production tax credit and potential revenue from renewable and carbon dioxide credits, MidAmerican believes it can build the wind farms at no or little cost to its retail customers.

MidAmerican is proposing to cap the cost of its potential projects to protect ratepayers. The cap levels are confidential.

NextEra told the IUB that MidAmerican's plan shifts the risk of building wind farms from the utility to its ratepayers. The proposed settlement agreement imposes "a higher level of risk on ratepayers to support this wholesale competitive business effort, while limiting if not eliminating through the adjustment to the revenue sharing agreement, the upside available to those ratepayers," NextEra said.

The developer contends that its offer to enter into PPAs and sell some wind farms to MidAmerican shields ratepayers from various forms of development risk.

NextEra was involved in a similar dispute over Wisconsin Power & Light's plan to build and own the 200-MW Bent Tree wind farm in Minnesota. The dispute was resolved in March when WPL, an Alliant Energy subsidiary, agreed to buy the output from one of NextEra's Iowa wind farms as well as the rights to a 160-MW project near Green Lake, Wisconsin. — *Ethan Howland*

Smart grid plan with a twist in Chicago

Unlike most applications for federal funding of smart grid plans filed with the Department of Energy last week, which came from utilities, commercial building owners in Chicago teamed up for a plan of their own to capitalize on building automation and other services to offer what amounts to a virtual generator capable of providing 200 MW of demand response.

The Building Owners and Managers Association of Chicago filed their plan to use a group-run network operating center that would analyze power grid conditions, electricity demand and market prices to suggest demand response strategies to the buildings and owners.

BOMA intends to use smart grid technology, including advanced meters to be installed by Chicago utility Commonwealth Edison, and other modifications in more than 260 commercial buildings in downtown Chicago in its $185.4 million program. The group represents more than 80% of the square footage and about 1,000 MW of peak demand in the city's central business district.

Most applications filed at DOE by the August 6 deadline came from utilities looking to spend millions of dollars and receive 50% matching grants for smart grid programs through the American Recovery and Reinvestment Act. Among the applications was one by ComEd, which supports the BOMA plan, BOMA said.

To participate in the BOMA effort, which sought federal funding of $92.7 million, owners would make significant building-level upgrades such as installation of digital controls, variable speed motors and other automation systems that would enable demand response capabilities with little or no impact on tenant comfort. Installation and management of such systems would create or retain 2,037 jobs, BOMA told DOE.

"In the past, nearly all discussion of demand response and smart grid technology has centered on the utilities delivering grid intelligence. For the first time, our program will demonstrate that demand side resources, such as our commercial buildings, can provide operating reserves, frequency regulation and capacity in wholesale markets," said Michael Cornicelli, executive vice president of BOMA in Chicago.

BOMA plans to use various smart grid firms and service companies, including Metropolitan Energy to design, build and implement the network operation center. Demand response firms, Schneider Electric and Kenny Construction intend to take part as well. — *Tom Tiernan*

Court vacates FERC decision on N.Y. hydro project

A federal appeals court on Monday vacated a decision by the Federal Energy Regulatory Commission to relicense a 39-MW hydropower project in the Mohawk River, New York.

FERC should have considered whether a settlement proposed in 2005 for the relicensing of the School Street hydropower project materially changed the original license application filed in 1991, said the US Court of Appeals for the 2nd Circuit in New York (*Green Island Power Authority, et al. v. FERC,* 07-1737, *et al.*).

The settlement was among plant owner Erie Boulevard Hydropower, a conservation group, and several federal and state agencies. Erie sought the license, although the original application was filed by the project's prior owner Niagara Mohawk Power.

Specifically, "FERC abused its discretion when it denied Green Island [Power Authority's] motion to intervene without first considering whether the offer of settlement materially amended the School Street license application," said Circuit judges Robert Sack and Robert Katzmann. Having been recently elevated to the Supreme Court, Justice Sonia Sotomayor is no longer the third member of the lower court's panel in this case.

Green Island wants to build and operate the proposed 100-MW Cohoes Falls project downstream of the School Street project on the Mohawk River. In 2004, Green Island unsuccessfully sought a preliminary permit to study the potential for the project, which could be developed only if the School Street project dam were removed, the powerhouse decommissioned, and Erie's license terminated.

After Erie submitted the proposed settlement for the School Street project, Green Island and several other parties jointly filed an alternative offer of settlement. In recognition that FERC would not be able to consider a competing license application for the School Street site, the 2006 filing included Green Island's application to license the Cohoes Falls project "for informational purposes only." Green Island argued that the commission should consider the application information in weighing whether to grant a license for the School Street

project. The commission rejected the alternative settlement.

In petitions to the 2nd Circuit, Green Island argued that FERC disregarded its obligation to solicit motions to intervene at three points during the relicensing proceedings: in 1995, when Niagara Mohawk changed its mind about installing an additional 21-MW unit; in 2001, when Erie "reversed course" and decided to it wanted to install the new unit; and in 2005 when Erie submitted the settlement.

The court upheld FERC's decision not to seek motions to intervene in 1995 or 2001, but found that the commission's decision not to seek interventions following the offer of settlement in 2005 was arbitrary and capricious.

The commission should not have relied on section 4.25 of its regulations, which govern how to determine the acceptance date of a license when an amendment has been submitted, the court said. An amendment to a license application "in response to a request from a resource agency . . . has no impact on the date on which the application is deemed to have been filed," the court explained, noting that resource agencies were party to the settlement.

The analysis that FERC should have performed at that time required it to consider solely whether the offer of settlement constituted a 'fundamental and significant change' to the School street license application," said the 2dn Circuit.

On remand, the commission therefore must consider whether the offer of settlement was a material amendment. "If it was, then FERC must consider Green Island's motion to intervene in the relicensing proceedings as timely filed and analyze it accordingly." If the commission grants Green Island's motion to intervene, "FERC is statutorily obligated to consider Green Island's evidence regarding the Cohoes Falls project proposal . . . notwithstanding the fact that FERC cannot license the Cohoes Falls Project instead of School Street," the court said. — *Esther Whieldon*

Pumped storage site relicensing recommended

To adequately protect environmental resources that may be impacted by the continued operation of the 636- MW Smith Mountain hydropower project in Virginia, staff of the Federal Energy Regulatory Commission on Friday recommended relicensing the project, but only if the scope of studies for the water management plan is expanded and the plan is reviewed every five years, instead of once.

The Smith Mountain pumped storage project (P-2210) is a two-dam, two-reservoir combined pumped storage and conventional hydropower project on the headwaters of the Roanoke River in the counties of Bedford, Campbell, Franklin and Pittsylvania, Virginia. Appalachian Power, a unit of American Electric Power, seeks to relicense the project. The existing license ends in March 2010.

By relicensing the project with environmental mitigation measures proposed by Appalachian, and with some additional staff-recommended measures, "the project would continue to provide a dependable source of electrical energy" and may offset the use of fossil-fuelled power plants, staff said.

The main environmental issues related to relicensing the Smith Mountain project include lake levels and instream flows, erosion and sedimentation in the lakes, the effect of operations on the fish population, controlling invasive vegetation and recreational access needs, staff said in an final environmental impact statement.

The river flows suggested in Appalachian's proposed water management plan, in addition to the flows required under the water quality certification, "would provide nearly optimal habitat" for the bass fish species in the river, staff said. However, the duration and coverage of the required flow study should be increased, staff said.

It also recommended modifying Appalachian's recreation management plan by changing the operational and flow study "to account for the influence of altered fish populations on fishing effort and success," staff suggested.

Appalachian proposes erosion and sedimentation monitoring plans "could reduce the sediment load entering the lakes" and "improve the stability of portions of the lakes' shorelines," said the August 7 assessment. However, Appalachian should expand the areas that would be monitored for erosion and clarify the methods and conditions under which sedimentation would be mitigated.

As for a habitat management plan, staff recommended adding a stipulation that habitat replenishment projects not be limited to sites adjacent to public access areas, islands, and areas adjacent to undeveloped shoreline, "but could include appropriate sites adjacent to some homeowner developments and commercial areas."

The estimated annual net benefits of operating the project under the staff-recommended measures would be $8.6 million, staff said. — *Esther Whieldon*

Covanta gets antitrust OK for plant purchases

Waste-to-energy company Covanta's $450 million acquisition of most of Veolia Environmental Services' North American business received antitrust approval on Monday.

In an early termination notice under the Hart-Scott-Rodino Antitrust Improvements Act, the Federal Trade Commission said neither it nor the Department of Justice's Antitrust Division plan to take enforcement action against the deal.

The deal includes six waste-to-energy plants in the US and one in Canada, Covanta said in a July statement announcing the deal. Collectively, the plants process about 3 million metric tons/year of waste, Covanta said in July. The deal is expected to close later this year.

Covanta said layoffs are not expected at the seven plants, which employ about 500 people.

Veolia is a Paris-based company with operations in the water, waste, energy and transportation fields. — *Keiron Greenhalgh*

Building starts on Northwest wind power line

Construction has started on a $343 million transmission line designed to carry more than 575 MW of wind energy through Oregon and Washington, the Department of Energy said Monday.

Funds from the American Recovery and Reinvestment Act will pay for the Bonneville Power Administration project,

which is expected to start service in early 2012.

"In addition to supporting the region's recovery efforts, BPA is answering the call of wind developers, with whom we're working closely to increase the amount of renewable energy that powers the Northwest," BPA Administrator Steve Wright said in a statement.

The McNary-John Day line will run 79 miles from the McNary substation in Oregon, across the Columbia River into Washington, and back into Oregon to end at the John Day substation.

BPA said earlier this year that it would pursue stimulus funds for the project, which it called "shovel ready." The project will create 100 to 200 construction jobs at its peak, DOE said.

DOE also said that BPA continues to move forward with environmental reviews under the National Environmental Policy Act for three additional high-voltage transmission lines in the Northwest.

The McNary-John Day project and the additional three lines would add more than 225 miles of lines to the Northwest grid and provide transmission service for about 3,360 MW of energy, including 2,575 MW of renewable energy. — *Carla Bass*

S&P raises outlook on Avista to positive

Standard & Poor's on Monday revised its outlook on electric and natural gas utility Avista's credit rating to positive from stable, citing recent rate increases in Washington and Idaho.

S&P also affirmed its ratings, including the Spokane, Washington-based company's BBB- corporate credit rating, its senior secured ratings of BBB+ and 1+ recovery rating, the preferred stock rating of BB and its short-term credit rating of A-3.

"The outlook revision reflects our opinion that improvement in the company's cash flow credit metrics and regulatory outcomes may be sufficient to support a higher rating level," S&P credit analyst Tony Bettinelli said in a statement.

S&P, like Platts, is a unit of The McGraw-Hill Companies.

The most recent general rate case settlement in Washington, effective back to January 1, provided Avista with a 9.1% increase for electric customers and a 2.4% increase for its natural gas customers — most of what was requested. That increase follows similar hikes in 2007.

A larger request currently is pending in Washington and the company also has been active in Idaho, where a general rate case settlement went into effect August 1, Bettinelli said.

"Frequent increases have supported improved financial results despite the recessionary environment, and have mitigated rate lag. Improved hydrological conditions in 2008 and 2009 have assisted in minimizing fuel and purchased-power cost deferrals, which have been an ongoing issue for the company."

But he added that "[w]e expect the regulatory support to be tested as the company continues to make investments over the next few years, which incidentally coincides with poor economic conditions." Avista's capital expenditures were about $220 million in 2008 and are expected to be at similar levels in coming years.

The company's electric and gas rates are average to slightly above average for the region versus those of other investor-owned utilities and public utility districts, S&P said. The rating agency also said that while unemployment in May was slightly below the national average for Avista's Washington and Idaho service areas, rising joblessness likely will result in increased opposition to rate increases.

"We currently anticipate that adjusted funds from operations to debt will average at or above 16% and that adjusted debt leverage will remain at or below current levels. Progress could be derailed by a worsening recessionary environment, very adverse hydro conditions that lead to large deferral balances, or if rate case activity does not yield timely and sufficient regulatory relief in Idaho and Washington," Bettinelli said. The ratings are unlikely to rise by more than one notch, he added. — *Jeff Barber*

PJM eyes fallout from cost ruling … from page 1

the benefits each receives from the facilities. Regional cost allocation is based on the premise that new transmission benefits all users by reducing congestion and increasing reliability.

FERC had argued that historic precedent and the difficulty of calculating which parties would benefit from a particular project make a "beneficiary pays" approach for high-voltage lines unworkable, although this method is used for lines in PJM with a capacity smaller than 500-kV. The court remanded the order back to FERC for further proceedings.

FERC's assertion that ratepayers in all of PJM would benefit from the big lines was unsupported by any evidence, the judges said, adding that the benefits of the biggest lines should be measured for purposes of cost allocation just as benefits of smaller lines are.

"There is already a lot of uncertainty out there … this will just add to this uncertainty," PJM spokesman Terry Williamson said. He added that PJM will continue to seek guidance from FERC as the commission reviews the order on remand.

Williamson added that "the importance of this issue for us is continued reliability of the transmission grid…we are hopeful that we get a timely resolution to this matter."

FERC spokeswoman Mary O'Driscoll said FERC had no comment on the decision or what actions FERC will take as it addresses the order on remand (*Illinois Commerce Commission et al. v. Federal Energy Regulatory Commission, Nos. 08-1306 et al*).

The Electric Power Supply Association was discussing the decision with its members on Monday and decline specific comment. But "it is yet another thing that is going to cause uncertainty going forward," said Daniel Dolan, vice president of policy research and analysis at EPSA. "We are very interested in seeing whether FERC ends up requesting the *en banc* review, especially given what we think was a very strongly written dissenting opinion," he added.

The court's ruling could well be reversed, but "the uncertainty now injected into the transmission planning process is real," Christine Tezak, with analysis firm Robert W. Baird, wrote in a research report.

The ruling "seems to threaten a key approach" that FERC has been using to facilitate the buildout of what is often called a superhighway for renewable power and other purposes, said

Tezak, who follows power industry issues closely. She said the court's position "has the potential to seriously upend the direction" FERC has been taking to support investment."

She suggested that the fastest resolution of the matter would probably be through an appeal to the full 7th Circuit, which could overturn the 2-1 decision. That option could take "a matter of months," Tezak observed. Or FERC and others that support broad cost sharing could ask the Supreme Court to review it, although that could take more than a year, "creating risk for the FERC and regulated entities seeking finalization of regional rates to support large regional transmission projects."

Tezak also said Congress could act on the issue. Renewable energy interests have been trying to get energy-bill provisions authorizing FERC to approve broadly applicable postage-stamp rates. The bill as it exists now, however, only contains language directing FERC to limit cost allocation to the extent to which benefits to utility ratepayers can be identified and measured.

The 7th Circuit ruling has no rate impact immediately, Tezak noted, but if FERC does not prevail in court review or in Congress, "rates with a postage stamp structure could be vulnerable to prospective changes if complaints are subsequently filed."

A former member of FERC viewed the ruling as more a reminder that "the commission has to be very thoughtful and specific about how it writes its orders" than an indictment of the specific pricing regime. "I don't hear the court telling FERC that you cannot do this [postage stamp pricing] under the circumstances," said William Massey, now a partner in the Washington office of Covington & Burling. "I don't see it that way."

Massey, who represents to pro-competitive market group Compete, went on to suggest the decision indicates that this is an area that would be ripe "for congressional guidance. Courts interpret the law, so if Congress says, 'do this,' and FERC does it, the court is going to uphold," he said.

Daniel Oginsky, senior vice president and general counsel for transmission developer ITC Holdings, said the company is still reviewing the order. ITC does not have projects in PJM that would be affected by the ruling, but "cost allocation is an important issue to us, generally speaking," he said.

"We do support broad regional cost allocation…," Oginsky said. "We'll be interested to see how this issue develops."

The ruling "seems to illustrate that it would be helpful to get better guidance from Congress on cost allocation issues," he said. Extra high voltage projects have regional benefits through increasing reliability, he added.

Public Utilities Commission of Ohio spokeswoman Shana Eiselstien said the commission was still reviewing the order and had no comment. The Illinois Commerce Commission did not return calls for comment by press time.

— *Jason Fordney, Craig Cano and Kathy Larsen*

Dynegy deals plants to LS Power… from page 1

Under the deal, LS Power is buying five natural gas-fired peaking plants and three combined-cycle plants, as well as Dynegy's remaining interest in a project under construction in Texas. LS Power will also receive the $235 million principal amount of 7.5% senior unsecured notes due 2015. The sale is expected to close by the end of the year.

Dynegy and LS Power in January dissolved a 2006 joint venture they had planned to develop merchant generating capacity. Dynegy at that time said that outlook for such development had deteriorated since the deal was struck.

Under the latest deal with LS Power, Dynegy's capacity will fall about 27% to 12,950 MW. "We're maintaining a balanced portfolio that will be weighted toward assets with greater earnings power and leverage to US economic and power market recovery," Williamson said. "You can think of this transaction as pruning or reshaping our portfolio but also preserving value."

The gas-fired plants to be sold include its Bluegrass and Riverside units in Kentucky, Rocky Road and Tilton in Illinois and it Renaissance unit in Michigan. The three gas-fired combined cycle plants to be sold are Arlington Valley and Griffith in Arizona and Bridgeport in Connecticut. The deal also includes Dynegy's interest in its 898-MW Sandy Creek project, which is under construction.

Dynegy contends that the plants that are being sold had limited upside. The company expected the plants to contribute about $70 million in adjusted earnings before interest, taxes, depreciation and amortization in 2009 and $140 million in adjusted EBITDA in 2010, Williamson said.

Following completion of the transaction, the company's generation will total 12,950 MW with 43% of that in the Midwest, 32% in the West and 25% in the Northwest. Coal-fired plants as a total of its generation will increase to 31% from 25% and fuel-oil fired generation to 10% from 7%. Its total gas fired generation will fall to 59% from 68%.

Dynegy is about 90% hedged through 2010, but only about 20% hedged for 2011. The company believes it is poised to benefit from a rebound in the economy.

Dynegy still wants to sell its stake in the 665 MW, coal-fired Plum Point project under construction in Arkansas, Williamson said.

Dynegy said that the deal will give it $3 billion in liquidity, including about $1.9 billion in cash on hand. The company had $1.87 billion in total liquidity as of August 3.

In addition to the sale, Dynegy is also looking to cut costs, including job cuts expected to cost it less than $5 million in restructuring charges in the third quarter. The company said it plans to reduce costs by $400 million to $ 450 million over a four-year period beginning in 2010.

Also, Dynegy has changed the terms of several credit agreements, giving the company greater flexibility in dealing with upcoming debt maturities. "Our rationale for seeking temporary covenant relief was to help ensure that we maintain ample liquidity as we manage through weakened markets and economic conditions," said Holli Nichols, Dynegy CFO. "In addition, we gained increased flexibility under the agreement allowing us to consider several options as we turn our attention to liability management."

As part of the deal, Dynegy agreed to pay its lenders about twice as much as under its older agreements, Nichols said. "Drawn pricing will increase from [London Interbank Offered Rate] plus

150 to Libor plus 375 basis points," she said. "Un-drawn pricing will increase from 37.5 basis points to 75 basis points."

Dynegy posts $345 mil Q2 loss

Dynegy lost $345 million, or 41 cents/share, in the second-quarter compared with a $272 million, or 32 cents/share, loss in the year-ago period on asset impairment charges and lower power prices. Second-quarter revenue increased to $493 million, up from $322 million a year ago.

Adjusted EBITDA from Dynegy's Midwest operations fell to $120 million from $170 million in the quarter. Sales increased to 5.9 million MWh from 5.5 million MWh, but prices were lower. Adjusted EBITDA from Dynegy's Western plants increased to $37 million from $40 million a year ago on increased tolling revenue. Sales fell to 1.3 million MWh, down from 2.3 million MWh a year ago. Adjusted EBITDA from Dynegy's Northeastern plants increased to $13 million from $12 million. Northeast sales increased to 2.1 million MWh from 1.6 million MWh in the same quarter in 2008 on improved spark spreads.

Dynegy reaffirmed its expected 2009 adjusted EBITDA at $680 million to $740 million. It lowered its expectations for 2010 to a range of $425 million to $550 million from $564 million to $690 million, partly reflecting the asset sales to LS Power.

On Monday, Dynegy was by far the biggest percentage gainer in the power sector — and 39th best on the New York Stock Exchange — closing up 30 cents or 15.5% at $2.23, only 2 cents below the day's high. Volume was 42.1 million shares or about 3.3 times normal.

Monday's close was up 10.9% in a week and 17.4% in a month, but down 63.7% in a year and 46.4% in five years. *— Ethan Howland and Paul Carlsen*

Duke, Chinese utility team up … from page 1

Beijing, and since then has returned a few times to China. Rogers approached Huaneng several months ago, Scanzoni said. He said Rogers thought the partnership between Duke and Huaneng would be a "natural fit."

Duke is looking at signing other agreements with other Chinese utilities, Scanzoni said.

Jim Owen, a spokesman for the Edison Electric Institute, said that the agreement is a "pretty unique undertaking that will create some interest synergies between Duke and their Chinese partner." Both Duke and Huaneng will be able to contribute worthwhile information to the other partner, he said.

Both companies are building state-of-the-art integrated-gasification, combined-cycle coal plants. China Huaneng built China's first carbon dioxide capture demonstration plant, and is building a larger-scale CO2-capture facility at a coal plant in Shanghai that will go online at the end of this year. The facility is designed to capture about 100,000 tons of CO2 per year. China Huaneng is also building another 250-MW IGCC demonstration plant in Tianjing city, which is expected to start operation by 2011. Duke is studying carbon capture at the IGCC plant it is building in Edwardsport, Indiana.

"There are a lot of synergies between these two companies," Scanzoni said. The two companies will also share information about renewable energy projects, with the long-term goal of possibly developing technologies for both coal and renewable generation that can be sold.

Duke looked to China rather than partnering with US utilities because of the pace at which China is building new, more efficient coal plants, Scanzoni said. He said Rogers has long believed that China must be part of the solution to global warming.

It is the first such MOU focusing on climate change technologies between a Chinese and US utility that Duke is aware of. EEI could not say definitively if there were other similar agreements between US and utilities in China or other countries.

At this point, no money will be exchanged between the two companies, but executives, engineers and others from both companies will travel to meetings and facilities in the other country, Scanzoni said.

The China Huaneng Group supplies 10% of China's electricity and is state owned, but is authorized to operate as a corporation. It has capacity of almost 89,000 MW. Duke has an international capacity of about 39,000 MW. *— Pam Radtke Russell*

Cooperatives urge Senate … from page 1

gases they are unable to reduce through technology or energy efficiencies.

The House of Representatives passed its carbon cap-and-trade bill in June, but NRECA told Boxer that "substantial improvements are necessary" in a Senate version and listed a half-dozen recommendations on timing, cost containment and giving emitters greater flexibility to use offsets.

A 2012 start date as imposed in the House bill (H.R. 2454) may be ahead of available carbon control technologies, and that could drive up compliance costs and "seriously imperil" the start of this long-term effort, according to NRECA. "Targets during the first 15 years of a climate program should reflect the expected availability of technology," the group said.

The co-ops also oppose House bill's provisions blessed by investor-owned utilities that give local distribution companies tradable emission allowances based on both their retail sales and their historic carbon emissions. NRECA said free allowances should be allocated solely on the basis of a plant's emissions to prevent some low-carbon regions from profiting in comparison to coal-dependent rural states.

Further, the 930-member organization said new federal legislation to cut carbon "should not simply be layered upon existing law" but serve as the "sole legal and regulatory requirements for reducing greenhouse gas emissions," usurping the Clean Air Act and other federal and state regulations in this area.

"Additionally, given the nature of the climate change issue, there is no benefit to allowing states to establish 'more stringent than' programs when there is a national cap established on emissions," said NRECA CEO Glenn English in his letter.

NRECA also suggested that a "safety valve" or cap on carbon allowances should be part of the bill to keep electricity prices from spiking. Last week, Boxer, a California Democrat, said she

was looking at a "price collar" which would set a floor and ceiling price on carbon emissions.

Boxer has said she would unveil a draft carbon cap-and-trade bill as early as September 8, the day Congress returns from its summer recess.

Last week, the National Association of Clean Air Agencies also wrote the senators with a list of recommendations for a climate change bill. This group, however, wants lawmakers to preserve state and local authorities' roles under a national carbon cap-and-trade program and to uphold related Clean Air Act programs.

NACAA said it was pleased that the House bill "contains strong language preserving state and local rights," but the group has concerns about the bill provisions that would require that regional cap-and-trade programs be dissolved between 2012 and 2017.

"No compelling reason has been offered for this encroachment on states' rights," NACAA said. "Although our strong preference is that this preemption not be included n the Senate bill, if it is retained, we urge that it be as narrowly delineated as in the [House bill] that it apply on to cap-and-trade programs and that it not take effect before the federal program actually begins."

The House bill requires electric power plants to begin reducing their carbon emissions in 2012 to 3% below 2005 levels. — *Cathy Cash*

platts 100 YEARS

32nd Annual

Coal Marketing Days

Prices, Politics, and the Economy

October 1–2, 2009 • Doubletree Hotel & Suites • Pittsburgh, Pennsylvania

Register by August 21, 2009 and SAVE $300

Topics for 2009:

- Gas and coal at the bus bar
  - economic modeling to establish the displacement point
- Wind power — Will it squeeze coal power portfolios?
- Economics of emissions controls — Retrofit, retire, or buy allowances?
  - risk analysis — cap-and-trade for SO_2, NOx, Hg, and CO_2
- Coal power/CO_2 storage investment amid regulatory and capital constraints
- Sourcing coal/fuels — Waste coal blends, the "sweet spot" for scrubbers
  - reselling coal to utility, industrial, and municipal users
  - use opportunity fuels for controlling fouling, slagging, and PM 2.5
- Marketability of high chlorine Illinois Basin coal moving east/southeast

Featured sessions:

- **CASE STUDIES: AEP's WV Mountaineer CO_2 Storage R&D Project and 600-MW John W. Turk Coal Power Plant**
  William Sigmon, SVP, Engineering, Project, and Field Services, **AEP**
- **Eastern Coal Capital Availability and Approaches**
  Philip J. Cavatoni, EVP, Finance and Strategy, **Alpha Natural Resources**

Sponsored by: AEP RIVER OPERATIONS® · STEPTOE & JOHNSON PLLC ATTORNEYS AT LAW · FUEL TECH

For a complete agenda or to register and SAVE $300, please visit us online at events.platts.com or call us at 866-355-2930 (toll-free in the US) or 781-430-2100 (direct).

For more information and speaking opportunities, contact:

James Gillies
Tel: 781-430-2110
james_gillies@platts.com

For sponsorship opportunities, contact:

Joshua Vernon
Tel: 781-430-2113
joshua_vernon@platts.com

For media inquiries, contact:

Gina Herlihy
Tel: 781-430-2109
gina_herlihy@platts.com

Registration Code: PC926-NLI